



Analysis of Submissions to the Constitutional Advisory Panel

A review of New Zealand's constitutional arrangements was one of the demands in the Maori Party's 2008 and 2011 coalition agreements with the National Party. A Constitutional Advisory Panel was established in 2011, and a series of by-invitation-only events were undertaken between February and June 2013 to discuss the matters in the Review's terms of reference, which included:

Electoral matters

- Size of Parliament
- The length of the term of Parliament and whether or not the term should be fixed
- Size and number of electorates, including changing the method for calculating size
- Electoral integrity legislation

Crown-Maori relationship matters

- Maori representation, including Maori Electoral Option, Maori electoral participation, Maori seats in Parliament and local government
- The role of the Treaty of Waitangi within our constitutional arrangements

Other constitutional matters

- Bill of Rights issues (for example, property rights, entrenchment)
- Written constitution.

Submissions closed at the end of July 2013. Altogether, 5,259 submissions were received and have been published on the www.ourconstitution.org.nz website.

Thanks to Denis McCarthy of the NZCPR Working Group Project, a summary of those submissions has now been provided. Clearly analysing so many submissions was a huge task and we are extremely grateful to Denis for the contribution he has made to open democracy.

The summaries cover firstly, the arguments promoted by Group Submissions, and secondly an analysis of the focus of individual submissions.

Further Reading

Mike Butler, [Submissions reveal constitution panel's trickery](#)

Ministry of Justice, [Official Information Act – breakdown of constitutional review submissions](#)

Muriel Newman, [Constitutional Compromise](#)

PART A – Group Submissions

AMNESTY INTERNATIONAL AOTEAROA (NZ) KAPITI

"Social, cultural and economic rights" to be inserted into the New Zealand Bill of Rights.

ANGLICAN DIOCESE OF AUCKLAND SOCIAL JUSTICE COUNCIL

Promotes a Treaty based Constitution.

AOTEAROA NEW ZEALAND ASSOCIATION OF SOCIAL WORKERS

1. Bill of Rights Act needs to be strengthened around indigenous rights.
2. The Treaty of Waitangi should be the foundation of our Constitution and its principles should be implemented throughout the entire document.
3. Retain Maori seats in Parliament and create or continue Maori seats in local government groups.

AUCKLAND COUNCIL ETHNIC PEOPLE ADVISORY PANEL

1. The Courts should have a higher authority than Parliament.
2. The Treaty of Waitangi should be made a formal part of the Constitution.
3. Government laws and policies must be consistent with the principles of the Treaty.

AUCKLAND REGIONAL HUI

(30 people attending)

(While their post refers to "topic discussed" the fact that they were sent to the CAP means that they wanted these same topics to be regarded as submissions.)

1. The Treaty of Waitangi should be entrenched.
2. An Upper House to have compulsory Maori representation.
3. Maori Language and Culture to be compulsory at all levels of education. All children will be able to converse in Maori.
4. The Constitution to be a compulsory subject in schools.
5. The number of Maori seats to reflect Maori population statistics and the role of Tangata Whenua.
6. Our country's name to be officially changed back to Aotearoa.
7. The Maori version of the Treaty to be the one that is recognised.
8. Maori knowledge and ways of being to be set at the same level as non Maori Knowledge.
9. In schools children are to be taught that Maori are the Tangata Whenua in all matters.
10. Embed the Treaty of Waitangi in all legislation.
11. Give statutory power to the New Zealand Maori Council to ensure true partnership in decision making.

CATHOLIC DIOCESE OF HAMILTON COMMISSION FOR SOCIAL JUSTICE

1. Entrench Maori Constituency seats.
2. Allow Maori Constituency seats in local government.

CHANGING MINDS

The Maori version of the Treaty to be accepted.

CHRISTCHURCH REGIONAL HUI

(30 people attending)

1. Retain Maori Roll and Seats.
2. Put in place co-governance between Maori and non Maori.
3. Make Te Reo compulsory.

EMPOWERNZ

Embed principles of the Treaty of Waitangi in our Constitution.

ENVIRONMENT AND CONSERVATION ORGANISATIONS

Accord Constitutional status to the Treaty of Waitangi.

ENVIRONMENT JUSTICE AND PEACE NETWORK NAPIER AND PUBLIC ISSUES NETWORK NAPIER

1. The absolute power of Parliament needs to be constrained (by the Courts.)
2. The Treaty of Waitangi is fundamental to our lives and relationships within New Zealand.
3. A co-governance model is supported.
4. Recommends a second House to monitor new legislation from the standpoint of the Treaty.
5. Allow Maori self determination in the areas of education, health, welfare and the administration of justice.

FRIENDS OF PUKETOKI

1. Courts able to overrule Parliament.
2. Treaty of Waitangi to be enshrined within the Constitution.
3. Retain Maori seats. Parliament should not be able to remove them.
4. Legislate for Maori representation in local government.

GISBORNE HUI

1. Maori to be compulsory in all schools.
2. Maori to have equal representation in Parliament.
3. Te Reo to be mandatory with all education providers.
4. Maori courts to exist side by side with non Maori courts.

HAMILTON REGIONAL HUI

(21 Attendees)

1. All laws should derive from the Declaration of Independence and the Treaty of Waitangi, as the foundations of our constitution.
2. Trust courts more than Parliament.
3. Courts should have the final say to ensure fair treatment.
4. The hapu should have the final say because they own the land - the marae would be the court system.
5. Make the Act supreme because legislation can be used to remove rights.
6. Add a right to bear arms against the government if they become the enemy.
7. Judges must be accountable to the people.
8. The Treaty needs to be extended above the courts.
9. The Treaty and He Whakaputanga should be throughout the Bill of Rights - "sovereignty" recognised.

HASTINGS REGIONAL HUI

(20 Attendees)

1. Maori version of the Treaty cannot be altered.
2. Equal Maori representation on local government.
3. Te Reo Maori to be compulsory.
4. New Zealand needs to be governed in partnership between Maori and other New Zealanders.

HUMAN RIGHTS COMMISSION

1. Retain Maori seats.
2. The government should legislate for dedicated Maori representation in local government.
3. Favours co-existing system of governance and processes of power sharing.

JUSTICE AND PEACE COMMISSION CATHOLIC DIOCESE OF AUCKLAND

The Treaty of Waitangi should become entrenched as superior law.

LOWER HUTT REGIONAL HUI

(40 attendees)

1. Compulsory Maori representation in central and local government.
2. Retain Maori seats in Parliament.

MANA TAURANGA MOANA

1. The Treaty of Waitangi to be recognized as a central component in our constitution.
2. Maori seats to be retained and entrenched.

NELSON BAYS COMMUNITY LAW SERVICE

1. The constitution should have higher legal status than other laws.
2. The courts rather than Parliament to be able to invalidate laws that are determined to be contrary to the constitution.
3. The courts to have the power to invalidate laws which infringe the Bill of Rights.
4. The principles of the Treaty should be incorporated into the constitution.
5. Retain Maori seats and increase their number.

NELSON REGIONAL HUI

(30 attendees)

There should be Maori representation by right in local government.

NETWORK WAITANGI WHANGAREI

1. The system of democratic majority decision making is not a suitable mechanism to ensure Maori input.
2. Te Tiriti O Waitangi should be the founding document of our constitution.

NEW ZEALAND MAORI COUNCIL

1. The Council will protect Maori seats.
2. The fact that local bodies are not answerable under the Treaty of Waitangi must be addressed.

NGA AO E RUA

The Treaty should be a formal part of the constitution.

NGAI TAHU MAORI LAW CENTRE

1. Te Tiriti O Waitangi should be our constitution.
2. A written constitution should have a higher legal status than other legislation.
3. The judiciary should have the ability to interpret if any law is in accordance with the constitution.
4. The Bill of Rights Act should enshrine Te Tiriti O Waitangi as paramount. Te Tiriti O Waitangi should sit above or supreme to the Bill of Rights Act.
5. The Bill of Rights Act should be entrenched.
6. The rights declared in the United Nations Declaration on the Rights of Indigenous Peoples should be incorporated into the constitutional framework either by adding it to the Bill of Rights or through entrenchment in a written constitution.

7. The courts should have the power to check whether legislation is consistent with the Bill of Rights Act.
8. Maori seats should be entrenched.
9. Establish Maori wards in local government.

NGAPUHI

Long statement denying that Maori transferred sovereignty to the Crown.

NGATI POROU KI PONEKE

1. The Constitution of New Zealand places the Treaty of Waitangi as the foundation document of our modern state.
2. All subsequent laws shall remain subservient to the fundamental rights established by the Treaty.

NGATI TAMAOHO TRUST

1. Make our constitution supreme law.
2. The courts to decide if legislation is consistent with the constitution.
3. The constitution needs to be considered in the context of the Maori Text, not the other way around.
4. There needs to be more fundamental changes in governance between the Crown and Maori:
Suggested examples:
 - (a) The Governor General could be replaced by a College of Hapu in finalising approval of legislation.
 - (b) and/or we could have two Houses of Parliament;
 - * A Treaty House for which Manua Whenua select the majority of residents but tauwiwi select some as well. (Comparable to the U.S. Senate or the British House of Lords.)
 - ** A multicultural House which provides representation for large ethnic groups in proportion to their numbers.
5. The Treaty is a sacred document which forms the bedrock of our constitution. It should not be subject to either judicial or political amendment.
6. Retain Maori seats.
7. New Maori voters should be automatically registered on the Maori Roll unless they opt for the General Roll.
8. Maori need to be able to exercise rangatiratanga at the local government level. Make this mandatory.

NIUEAN COMMUNITY OF AUCKLAND

1. Supports Te Tiriti O Waitangi.
2. Maori should determine the role that Te Tiriti O Waitangi has in the constitution and how they should be represented in Parliament and local government.
3. The constitution and the Bill of Rights Act should have a higher legal status than other laws.

PAX CHRISTI AOTEAROA NEW ZEALAND

1. The Crown should accept the Maori version of the Treaty.
2. All legislation to be reviewable by the courts against compliance with Te Tiriti O Waitangi.
3. The Crown should recognize He Whakaputanga O Te Rangatiratanga O Nui Tireni as the constitutional foundation for the country.
4. The constitution should be under the guardianship of a specially constituted Upper House/Senate comprising equal numbers of Maori appointed members and of others selected by the unanimous agreement of a suitably eminent group of citizens.

QUAKERS THE RELIGIOUS SOCIETY OF FRIENDS

1. Future constitutional arrangements must be based on Te Tiriti, its spirit and its intent.
2. Suggest co governance arrangements at local level.
3. Support the establishment of a bi-cameral Parliament with a Treaty based Upper House.
4. In favour of an independent political body with Treaty based representation with a brief to ensure that legislation complies with Te Tiriti and the United Nations Declaration of Human Rights of Indigenous Peoples.
5. The Bill of Rights Act should be supreme law.
6. There should be a Te Tiriti O Waitangi Commissioner.

ROTORUA REGIONAL HUI

1. Local councils should have designated Maori seats and councillors should consult with iwi on a regular basis on the marae.
2. Compulsory enrolment of Maori on the Maori Electoral Roll.
3. The Treaty principles and articles to be protected and entrenched.
4. A written constitution to be based on Treaty principles.
5. Education on the Treaty of Waitangi to be compulsory in schools.
6. Bill of Rights Act to include Declaration of the Rights of Indigenous Peoples.

TAIRAWHITI COMMUNITY LAW CENTRE

1. The rights declared in the United Nations Declaration on the Rights of Indigenous Peoples should be incorporated into the constitutional framework either by adding it to the Bill of Rights or through entrenchment in a written constitution.
2. Courts should be able to override Parliament.
3. Maori seats should be entrenched.
4. It is not realistic to seek a full and final settlement to Treaty claims.
5. The Treaty of Waitangi should be a formal part of the constitution.

TAKAPUNA AND NORTHCOTE METHODIST PARISHES

(17 attendees)

The principles of the Treaty of Waitangi should be written into the constitution and become part of supreme law.

TAMAKI TREATY WORKERS

1. Make Bill of Rights Act supreme law subject only to the Treaty of Waitangi.
2. Courts rather than Parliament to decide if legislation is consistent with the Bill of Rights Act.
3. There should be a set number of seats for Maori on local councils and boards.

TE ARAWA NATIVE DISTRICT WAKA MAORI

The governance of the country resides entirely with the native inhabitants who are the Tangata Whenua Maori.

TE IWI O TE ROA

1. The courts must retain the ability to determine whether or not legislation is consistent with the constitution.
2. The supremacy of Parliament is not applicable to New Zealand given the special constitutional status of the Treaty of Waitangi.
3. Retain Maori seats.
4. There should be compulsory Maori wards in local government.

TE TARI PUNA ORA O AOTEAROA - NEW ZEALAND CHILDCARE ASSOCIATION

1. Tribes should be represented in the decision making organisations.
2. The Treaty of Waitangi needs to be included in the constitution.

TE WHARE AKONGA - OPEN LEARNING CENTRE

1. Maori should automatically be enrolled on the Maori Roll.
2. Parliament and local government should consist of half Maori and half non Maori.
3. Te Tiriti Waitangi should be paramount as our founding document and must be entrenched in legislation.

THE MAORI PARTY

1. Constitutionally recognise Te Tiriti Waitangi.
2. Retain and look to increase Maori seats.
3. Enter Maori on the Maori Roll when born. (Opt out available later.)
4. Recognise local government as an implementation partner to Te Tiro O Waitangi.
5. Mandate local government to have mana whenua representatives.

THE NELSON BAYS COMMUNITY LAW SERVICE

1. Courts to have power to invalidate laws that are determined to be contrary to the constitution and/or infringe the Bill of Rights.
2. The principles of the Treaty of Waitangi to be incorporated into the constitution.
3. Retain Maori seats.

THE SOVEREIGN TRIBAL COUNCIL OF TE TANGATA

In essence, Maori own the country and the Council does not recognise current constitutional arrangements.

UNICEF NEW ZEALAND

The Treaty of Waitangi and the United Nations Human Rights Treaties to be appended to the constitution.

WELLINGTON FEDERATION OF GRADUATE WOMEN - HUTT VALLEY GROUP

1. The courts rather than Parliament should decide if legislation is consistent with the constitution.
2. Retain Maori seats.

WELLINGTON TREATY EDUCATORS NETWORK

1. He Wakaputanga (the Declaration of Independence) and Te Tiriti O Waitangi provide the fundamentals for governing this country.
2. The Treaty should be part of our constitution.
3. The constitution should be supreme law.
4. The Courts rather than Parliament should have the power to decide if legislation is consistent with the constitution.
5. The Bill of Rights Act to be supreme law.
6. There should be a set number of seats for Maori on local councils.

WOMEN'S INTERNATIONAL LEAGUE FOR PEACE AND FREEDOM

Constitutional arrangements to be based on the Maori version of the Treaty of Waitangi.

PART B – Individual Submissions

The following is an overview of the wishes, concerns and perspectives of citizens who cared enough to make their own Individual Submission to the CAP.

Individual Submissions are classified into seven groups.

Given the varied format of submissions, there is an element of subjectivity in this type of exercise - someone else repeating it would almost certainly arrive at slightly different results. I suggest that if the issues had gone to a binding referendum following adequate preparation and publicity an even stronger showing from Group A would have emerged.

STATEMENTS OF CONCERN

1. There should be one law for all.
2. As one nation we are all equal under the law. There should be no racial preference or discrimination.
3. We do not need a new written constitution. Leave the constitution as it is. "If it isn't broken don't try to fix it!"
4. Delete racial preference from legislation and any government policies.
5. Parliament should remain the supreme law maker.
6. The Treaty of Waitangi should not be part of our legislation. Any existing Treaty of Waitangi references in our legislation should be removed.
7. Terminate the Treaty of Waitangi. No longer relevant and a focus for dissension.
8. Abolish the Waitangi Tribunal and terminate Treaty claims.
9. Abolish the Maori seats.
10. There should be no designated Maori seats in local government. Treat Maori the same as anyone else.
11. Any proposed constitutional change should be subject to a binding referendum.
12. Special treatment for Maori is institutional racism.
13. The Treaty of Waitangi and its principles should not be incorporated into the constitution.
14. All New Zealanders have the same rights and responsibilities.
15. Oppose laws which establish or promote distinction or division.
16. No race based legislation.
17. Our democratic rights should be based on citizenship, not race.
18. The past and present efforts of Maori grievance groups to obtain and retain political privilege and natural resources are creating anger and resentment among mainstream New Zealanders.
19. Oppose separatism
20. We need Direct Democracy to control the politicians.
21. Most citizens did not know about the CAP meetings. Inadequate publicity. One writer quotes a research finding that only 33% of the voters knew about the Constitutional Review. Other writers say that they found out about it by accident or on Facebook.
22. The CAP is biased towards Maori radical groups.
23. The CAP seems to have its own political agenda. Some of the questions asked were loaded.
24. The agenda of the CAP was structured to favour Maori.
25. The composition of the CAP did not reflect the structure of the New Zealand community.
26. This whole constitutional process has been poorly managed..

CLASSIFYING THE SUBMISSIONS

*GROUP A

Writers who supported one or more *Statements of Concern*.

*GROUP B

Writers who favoured:

- a) A new written constitution in a single document.
- b) The Treaty of Waitangi and its principles to be a core element of this constitution.
- c) The retention of Maori seats in parliament.
- d) Designated Maori seats or wards in local government.
- e) The ability of the courts to override legislation passed by Parliament.
- f) Co- governance in Parliament and/or Upper House.

*GROUP C

Writers who made submission on the governance of New Zealand, but who did not discuss the Treaty of Waitangi or designated Maori representation. Their focus included the electoral system, the size of Parliament, the role and appointment of the Governor General, the number of MPs, Upper House and establishing a republic and the Bill of Rights.

*GROUP D

A large number of writers signed a pre printed submission form supporting the Group Submission of Amnesty International. The only variations on these forms were the names of the submitter and his or her place of residence. These submissions focused on human, cultural and economic rights and did not specifically comment on Maori representation or the Treaty of Waitangi.

*Group E

The writers in this group outlined their aspirations for the country - the changes and improvements they wanted to see in the areas of human relationships and welfare. How the State and society could better help those in need. The values our society should encourage and embrace.

*GROUP F

This group which cuts across Groups A, B,C,D and E submitted a range of long closely typed articles, essays and dissertations, some on the Treaty and others on social or political issues. Many seemed "to discuss the issues" without getting down to the Plain English submissions. The longest one was sixty - eight pages! (No, I didn't read them all and I wonder if anyone else did.)

*GROUP G

Never mind what the agenda of the CAP was. The people in this group had a complaint and this was a chance to make it. Some complaints reflected general dissatisfaction with the politicians and government in general while others outlined a personal grievance against a government agency which had not acted in the way the writer had wanted.

A FURTHER EXPLANATION

There were some double and triple entries - that is the same entry repeated on the website. There is nothing sinister in this. Some writers had trouble getting their email submissions accepted and tried again. I only counted each submission once.

I did not count the following submissions:

- a) Entries from school children.
- b) Entries (a few) which were illegible.
- c) Abusive emails to the CAP.
- d) Entries from groups who tried to pass off their "areas of discussion" as individual submissions. In these cases there were no individual signatures.

TALLY OF INDIVIDUAL SUBMISSIONS

Groups B, C, D, E, F and G are clustered together.

INITIALS	GROUP A	GROUP B-G
A-G	949	476
H-M	893	533
N-S	637	401
T-Z	395	241
TOTALS	2,874	1,651